

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

DAVID DUSTY JONES, )  
                          )  
Plaintiff,            )  
                          )  
v.                     )       No.: 3:10-CV-375  
                          )       (VARLAN/SHIRLEY)  
MICHAEL J. ASTRUE, )  
Commissioner of Social Security, )  
                          )  
Defendant.            )

**ORDER**

This Social Security appeal is before the Court on the Report and Recommendation entered by United States Magistrate Judge C. Clifford Shirley on July 20, 2011 [Doc. 20]. There have been no timely objections to the Report and Recommendation and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In the Report and Recommendation, the magistrate judge recommends that plaintiff's motion for summary judgment [Doc. 13] be granted to the extent that this case is remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) so the Administrative Law Judge can properly evaluate plaintiff's credibility and appropriately address the credibility findings referenced in the Report and Recommendation. The magistrate judge also recommended that defendant Commissioner's motion for summary judgment [Doc. 17] be denied.

The Court has carefully reviewed this matter, including the underlying pleadings. The Court is in agreement with the magistrate judge's recommendation, which the Court adopts

and incorporates into its ruling. Accordingly, the Court **ACCEPTS IN WHOLE** the Report and Recommendation [Doc. 20]. Additionally, it is hereby **ORDERED** that defendant's motion for summary judgment [Doc. 17] is **DENIED** and that plaintiff's motion for summary judgment [Doc. 13] is **GRANTED** to the extent that the Commissioner's decision in this case is **REVERSED** and this case is **REMANDED** pursuant to 42 U.S.C. § 405(g) for a new hearing consistent with this order and the magistrate judge's Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

s/ Patricia L. McNutt  
CLERK OF COURT